



Supporting Child Witnesses through the Criminal Court Process: Experiences of Children and their Caregivers

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Funded by: Office for Victims of Crime,
Ontario Ministry of the Attorney General



Purpose

- Explore with child witnesses, their caregivers, and key informants what was helpful and unhelpful about the preparation and support they received from the service system before, during, and after the child testified in court
- Assist in easing the stress of testifying in court for children and their caregivers by improving the court preparation and support services provided

Objectives

To explore:

- The process of how court preparation and support is conducted for child witnesses (age 15 and under) and their caregivers in an area where specific programs for child/witnesses do not exist;
- The impact of the court experience on the child from the perspectives of the child and her/his caregiver;
- What the children and their caregivers thought they needed to help them through the process of testifying in Criminal Court;

Objectives cont.

To explore:

- What were the barriers to obtaining what they needed to ease the process of testifying;
- What was most helpful and least helpful about their experiences with respect to the preparation and support they received before, during, and after testifying; and
- How key informants, children and caregivers think the system of court preparation and support could be improved.



Childhood Trauma

Literature

- Children experiencing or witnessing violence can develop emotional and behavioural problems, posttraumatic stress disorder (PTSD), anxiety disorders, depression, or substance abuse problems (Cohen, Berliner, & Mannarino, 2003; Dubner & Motta, 1999; Peltzer, 1999; Shipman, Rossman, & West, 1999; Wolfe, Crooks, Lee, & McIntyre, 2003)
- Stress of testifying in court, especially against someone who has been in a position of trust, can create further trauma for children who have already experienced abuse or witnessed abuse (Brannon, 1994; Walton, 1994)



Child Seeing Accused in Court

Literature

- Feelings of pressure from the accused to be silent during and after the abuse may be revived (Davies, 1999)
- Testifying can rekindle feelings of betrayal, helplessness, powerlessness, shame, and guilt that the child felt during the original trauma (Brannon, 1994)
- May interfere with child's ability to give competent and clear testimony or child may refuse to testify (Doueck et al., 1997; Marsil, Montoya, Ross, & Graham, 2002)

Testimonial Aids

Literature

- Arguments against use of Closed Circuit TV
 - “witnesses on the stand will more readily emit signs and cues that will assist jurors in assessing credibility;
 - placing witnesses under a certain amount of stress will improve the quality and accuracy of their evidence, and as a result;
 - the decision-making function of the jury will be more effectively accomplished” (Davies, 1999, p. 244)

Testimonial Aids

Literature cont.

- Research shows
 - after deliberation, juries are not affected by CCTVs (Davies, 1999)
 - mixed results regarding whether they affect the quality and accuracy of the testimony (Marsil et al., 2002; Montoya, 1995)



Cross-Examination

Literature

- Questions asked are frequently beyond the developmental comprehension capacity of the child witness (Park & Renner, 1998)
- Confusion created by cross-examination can trigger feelings reminiscent of the abuse (Westcott & Page, 2002)
- Identity confusion can be reinforced when a child is accused of being the instigator of the abuse, and at the same time accused of not being mature enough to be a reliable witness (Westcott & Page, 2002)



Delays in Testifying

Literature

- Children who have been repeatedly abused often anticipate the next time that the abuse will occur (Enns, McNeilly, Corkery, & Gilbert, 1995)
- Anticipation of having to testify against the accused can trigger the fear and terror associated with the child's anticipation of the reoccurrence of the original abuse



Courtroom Setting

Literature

- Intimidating atmosphere of the courtroom, and lack of information about what is about to occur, can trigger experiences of fear and anxiety from the past, making it difficult for the child to testify accurately and comprehensively (Melton et al., 1995)



Methodology

- In-depth, open-ended, semi-structured interviews
- Ranged from 1 to 2 hours
- Key informants recruited through their organizations
- Children and caregivers recruited initially through Victim/Witness Assistance Program and later through other key informants



Interviews

- Face-to-face and audiotaped
- 3 law students with Master degrees in other disciplines and human service experience and 1 MSW social worker with experience working with children were trained to conduct interviews
- Transcripts reviewed by principal investigator to give ongoing training and supervision

Interviews cont.

- Focused on
 - child and caregivers first contact with
 - criminal justice system
 - V/WAP
 - other organizations that might have been involved in preparation and support
 - their experiences of their ongoing contact with these systems
 - impact of court process on child and caregiver
 - support following court appearance
 - what was most helpful in preparing and supporting child before, during, and after court
 - what would have been more helpful
 - what they would like to see changed in the system



Analysis

- Audiotaped interviews were transcribed and analyzed using Consensual Qualitative method of analysis (Hill, Thompson, Williams, 1997)
- Team independently analyzes data and consensus was reached on an ongoing basis
- Domains were defined and continuously modified as the data emerged
- Core ideas were developed and cross-analyzed



Participants

- Key informant service providers (14 interviewed)
 - Police
 - Child welfare
 - Social services
 - Victim/witness support
 - Crown Attorneys
 - Judges
- Child witnesses (8 to 15 years of age at the time of testimony)
- Caregivers of children

Key Informant Demographics

Age	Range 29–59 years (M=44 years)
Gender	11 women (79%) 3 men (21%)
Minority group	2 (14%) 1 Black 1 Francophone
Occupation	4 V/W Assistance 3 CAS and other social service workers 3 Crown Attorneys 3 Judges 1 Police Officer

Key Informant Demographics cont

Length of time in current profession	12 years
Length of time working with child victim/witnesses	11 years
Percentage of caseload who are child victim/witnesses and/or caregivers	21%

Themes

Testimonial aids

- subjective – depends on the child, their age, maturity, level of fear, anxiety, etc.
- Closed circuit
 - prevents contact with accused
 - fear with closed circuit they will “lose” the child, so often they advocate for the screen instead;
- Screen
 - child looks around the screen
 - sometimes they can have the reverse effect, that is, the child freezing when s/he sees the screen

Themes cont.

- Providing comfort to the child
 - Assuring child regarding appropriateness of crying
 - Adequate preparation
 - Establishing rapport
 - Consideration of how to address child
 - Having support person in court
 - Having symbol of support
- Sensitivity of court personnel
 - Process intimidating for child
 - Use of confusing language/badgering the witness
 - Judge protecting the child
 - Defense lawyers protecting rights of accused

Themes cont.

- Timeframe
 - Delays day of testifying
 - Interruptions
 - Children become tired, confused, angry, and bored
 - Children waiting for parents to testify
 - Children needing breaks
 - Length of entire court process
 - Effect on child's memory
 - Worry that children cannot move on

Themes cont.

- Waiting room and courtroom facilities
 - Consideration of child's needs
 - Minimizes child's anxiety
 - Gives Judge more control over the process
- Participation of the caregiver
 - Addressing emotional needs of caregiver
 - Testifying
 - Transfer own feelings onto child
 - Decisions made contrary to child's wishes



Recommendations of Participants

- smaller and child friendly courtrooms
- shorter breaks
- schedule one matter per court/per day when a child is testifying to eliminate excess people in the courtroom
- help children recall by way of seasons (i.e. “do you remember if it was cold or hot outside”)
- more flexibility with children’s testimony
- mandatory training for judges
- sensitivity training for crown attorneys



Recommendations of Participants

cont.

- peer support group for children testifying
- more extensive preparation with additional funding
- more funding overall for all elements of the criminal justice system
- child witness being able to practice their testimony with the crown
- eliminate cross examination of children by defense counsel



Recommendations of Participants

cont.

- more frequently using other methods to introduce children's evidence as opposed to having them testify in court (i.e. video statements)
- provide the caregivers with as much information and support as possible
- designated crown attorney's
- additional safety measures (i.e. police escort to car/court)



Recommendations by Research Team

- Assess the child's
 - level of maturity and cognitive ability to testify
 - psycho/social/emotional state resulting from the abuse and the anticipation of testifying
 - ability to face the accused
 - ability to focus and clearly relate what happened

Recommendations by Research Team

cont.

- Assess parent/caregiver's beliefs about
 - the child
 - the child's experiences of the abuse
 - their own experiences of the abuse
 - their beliefs about the child's ability to testify
- Assess the emotional needs of the caregiver and the impact on the child, before, throughout, and after the trial process
- Assess the impact on the child of when the caregiver testifies and is more supportive of the accused



Recommendations by Research Team

cont.

- Assess the child's emotional responses throughout the trial process
- Prepare the child for using testimonial aids and let her/him use them ahead of time
- Validate the child's emotions
- Treat the child with the same respect as an adult



Recommendations by Research Team

cont.

- Understand that the process alone is intimidating
- Make the trial process as predictable as possible for the child
- Control the use of confusing, manipulative, or suggestive questions
- Do not allow “badgering”



Recommendations by Research Team

cont.

- Control interruptions
- Consider the child's need for breaks in juxtaposition to prolonging the length of testifying
- Consider the child's needs from the time s/he enters the court building and take action to minimize their anxiety in the halls, while waiting, and in the courtroom
- Take steps to ensure the child is supported throughout the process

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World Conference on the Prevention of Family Violence

Presentation Abstract

Children Testifying in Criminal Court: Understanding the Experiences of Children and Caregivers

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This qualitative study explored experiences of testifying in criminal court from the perspectives of children, who are victims or witnesses to family violence, and their caregivers. The impact of their court experiences was examined and participants were asked what was most and least helpful before, during, and after testifying. The ultimate goal was to assist in easing children's stress by enhancing the court preparation and support services provided. Many of the caregivers were also victims of family violence and the experience of court involvement, if handled well, can be an experience of empowerment and contribute to breaking the cycle of violence.

Open-ended, semi-structured interviews were conducted. Two volunteer samples included 1) child witnesses (8 to 15 years of age) and their caregivers who had completed their contact with the criminal justice system; and 2) professionals involved with the preparation and support of child witnesses, including police officers, child protection workers, victim/witness support workers, social service workers, crown attorneys, and judges. The interviews with children and their caregivers focused generally on the effect they felt the preparation, support, and criminal justice processes had on them. Issues addressed in the Victims' Bill of Rights (1995), such as treatment by the system, what information was shared about the criminal justice process and the progress in their case, and information they had about other services that might have been helpful to them, were explored. Interviews with professionals explored their perceptions of how children and caregivers are prepared for court and supported throughout the process.

Themes identified in the interviews related to stress associated with testifying in court, such as, delays the day of testifying, waiting room and courtroom facilities, and sensitivity of court personnel to children's needs will be presented. Stress related to giving evidence when the accused is present and children's experiences of testimonial aids will be offered. Issues of telling their "stories" in a formal courtroom setting and experiences of cross-examination will be highlighted. The effect of postponements in testifying and the length of the entire court process will also be addressed. Participants' recommendations for improving the criminal justice process will be given in conjunction with application strategies that professionals in the system might use to ease a child's stress.

Few studies have evaluated child witness preparation and support from the perspectives of professionals and caregivers and even fewer, if any, have examined the first hand experiences of children who testify. We believe that the lived experiences of these

children will provide new information that can be used in improving the system and protecting the rights of child victims throughout the criminal justice process.